IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

RP.No. 683 of 2007(S)

AGAINST THE JUDGEMENT/ORDER IN COC.390/2007 Dated 04/07/2007

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REVIEW PETITIONER/IST RESPONDENT :

M.K.SIVAN, AGED 50 YEARS,
S/O.KUNJAPPAN PILLAI, MANGALATHU HOUSE,
ENANELLOOT.P.O., VARAPETTI, KOTHAMANGALAM.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS/PETITIONER & 2ND RESPONDENT :

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1. M.K.VINOD, AGED 31 YEARS,
S/O.KUNJAPPAN, MANGALATHU HOUSE,
ENANELLOOT P.O., VARAPETTI,
KOTHAMANGALAM.

2. LATHIKA KUMARI, SECRETARY,
VARAPETTI GRAMA PANCHAYATH,
VARAPETTI, KOTHAMANGALAM.

R1 BY ADV. SRI.GEORGE ABRAHAM

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

R.P. No. 683 of 2007
IN
C.O.C. No. 390 OF 2007

Dated this the 26th day of July, 2007

O R D E R

In this petition, the 1st respondent in the Writ Petition seeks review of interim order dt.04.07.07 which I have passed in COC No.390 of 2007. Under that interim order, I had held that a prima facie case is made out for initiation of contempt action against the 1st respondent in the Contempt Case, i.e., the petitioner herein and I had also ordered that the Contempt Case will stand dropped as against the 2nd respondent(the 2nd respondent herein). The Contempt Case was filed by the 1st respondent herein alleging that the directions in my judgment dt.11.01.07 in WP(C) No.28775 of 2006 had been violated. The judgment in the Writ Petition was Annexure A2 in the Contempt of Curt Case. Under Annexure A2, I had ordered that the petitioner herein who was the 4th respondent in the writ petition shall not increase the strength of the chicken in the chicken farm, which was the subject matter of the Writ Petition, above 2000, till the Panchayat had passed orders on his application for renewal of licence. I had also ordered in Annexure A2 that till such time as the Pollution Control Board conducts the second visit ordered therein, the review petitioner shall not bring any fresh

chicken at all to the farm.

2. Review of Annexure A1 interim order is sought on the ground that the same was passed on wrong statements made by the 1st respondent that conditions in Annexure A2 were violated by the review petitioner. The records, it is contended, will prove that the review petitioner had not violated the conditions in Annexure A2 judgment. It is also urged that the review petitioner commenced the firm long ago and is conducting the firm sustaining huge losses and being the sole bread winner of the family, the review petitioner finds it difficult to both ends meet.

3. I have heard the submissions of Sri.Peeyus A. Kottam, counsel for the review petitioner and also those of Sri.George Abraham, counsel for the 1st respondent, the Writ Petitioner. Relying on the judgment of a Division Bench in **Niyamavedi v. Union of India & Others** [2004 (1) KLJ 68]. Mr.Peeyus submitted that the writ petitioner had suppressed material facts and has secured the judgment in the Writ Petition by playing fraud. The Writ Petitioner should not be permitted to take advantage of a fraud which was perpetrated by him on the Court.

Though impassioned submissions were addressed before me by Mr.Peeyus, the learned counsel has not been able to convince me regarding the maintainability of this petition for review of Annexure A1

order by which I have held that a prima facie case is made out for initiation of action against the review petitioner for contempt and has only made over the case to the appropriate Division Bench, if necessary, for framing charge. The submissions of Mr.George Abraham in this regard are supported by the judgment of a Division Bench of this Court in **Antony v. P.S.Rana** [2005 (2) KLT 120]. After all, it is always open to the petitioner to plead not guilty to the charge which may be framed against him by the Division Bench and to establish his innocence and get himself exonerated from action. The Review Petition will stand dismissed.

PIUS C. KURIAKOSE, JUDGE

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